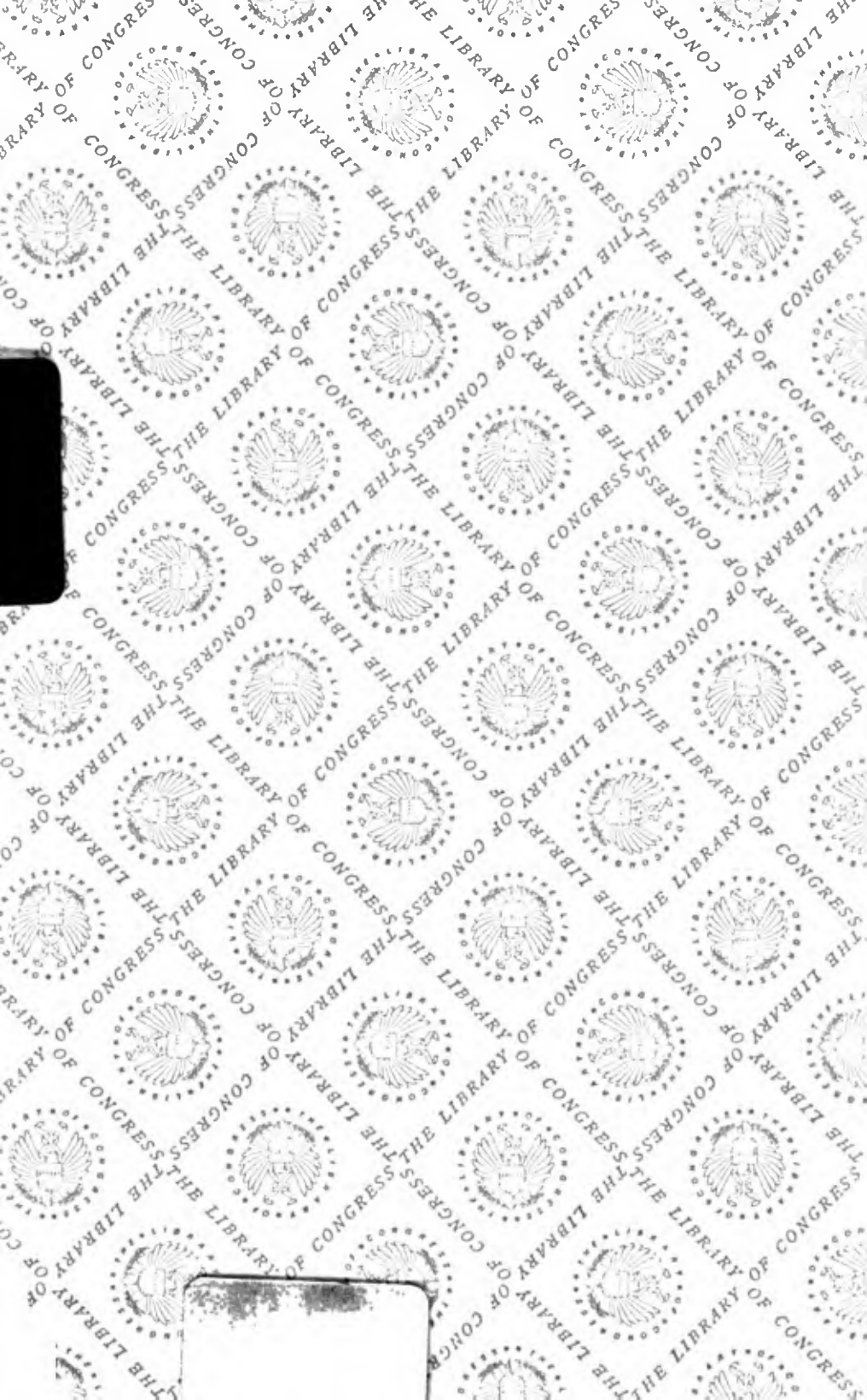


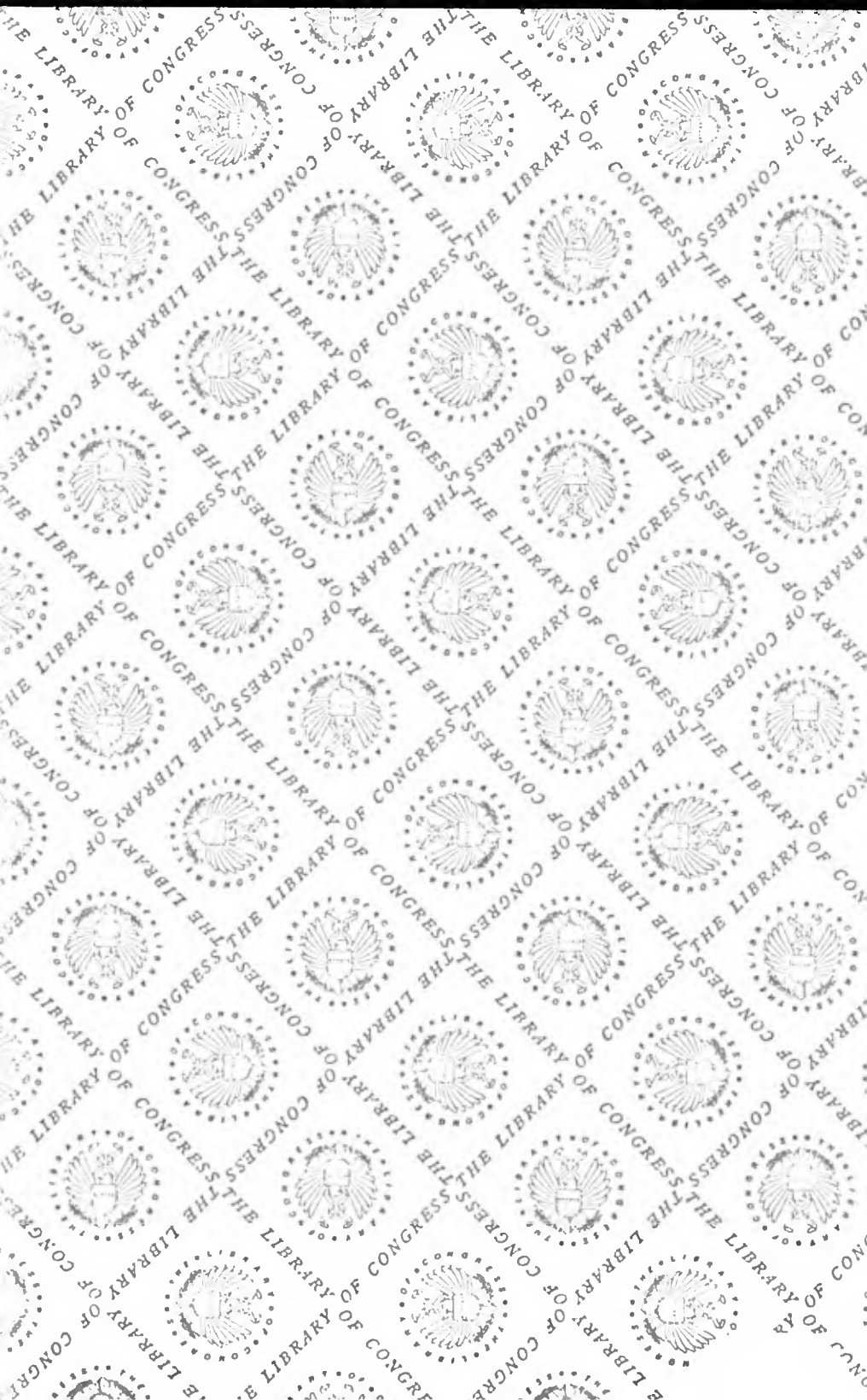
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CARD DIVISION

**PROHIBITING CERTAIN ACTS AND TRANSACTIONS
INVOLVING GAMBLING MATERIALS**

HEARINGS

BEFORE

SUBCOMMITTEE NO. 2

U.S. Congress. House OF THE

COMMITTEE ON THE JUDICIARY.

HOUSE OF REPRESENTATIVES

EIGHTY-THIRD CONGRESS

SECOND SESSION

ON

H. R. 7975

**A BILL TO PROHIBIT CERTAIN ACTS AND TRANSACTIONS
WITH RESPECT TO GAMBLING MATERIALS**

Serial No. 20

MAY 19, JUNE 9, AND JULY 9, 1954

Printed for the use of the Committee on the Judiciary



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no. 20

PROHIBITING CERTAIN ACTS AND TRANSACTIONS] WITH RESPECT TO GAMBLING MATERIALS

WEDNESDAY, MAY 19, 1954

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE NO. 2 OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D. C.

The subcommittee met pursuant to notice at 10:20 a. m., in the committee room, 346 House Office Building, Hon. Patrick J. Hillings (subcommittee chairman) presiding.

Present: The Honorable Messrs. Hillings, Robsion, Poff, and Feighan.

Also present: Mr. Malcolm Mecartney, committee counsel.
(H. R. 7975 is as follows:)

[H. R. 7975, 83d Cong., 2d sess.]

A BILL To prohibit certain acts and transactions with respect to gambling materials

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 61 of title 18 of the United States Code is amended to read as follows:

"CHAPTER 61—LOTTERY AND GAMBLING ENTERPRISES

"Sec.

1301. Importing, transporting, or mailing gambling or lottery materials.

1302. Postmaster or employee as gambling or lottery agent.

1303. Broadcasting gambling or lottery information.

1304. Fishing contests; track racing events; foreign publications.

"§ 1301. Importing, transporting, or mailing gambling or lottery materials.

"(a) Whoever knowingly brings into the United States for the purpose of disposing of the same; or whoever knowingly deposits with any express company or any other carrier for compensation or carriers in interstate or foreign commerce; or whoever knowingly deposits in the mail, or sends or delivers by mail—

"any letter, package, postal card, or circular concerning any gambling enterprise, lottery, gift enterprise, or scheme of any kind offering money or other prizes dependent in whole or in part upon lot or chance;

"any gambling or lottery ticket or part thereof, or paper, certificate, or instrument purporting to be or to represent a ticket, chance, share, or interest in or dependent upon the event of any gambling enterprise, lottery, gift enterprise, or scheme of any kind offering money or other prizes dependent in whole or in part upon lot or chance;

"any punchboard or pushcard;

"any check, draft, bill, money, postal note, or money order, for the purchase of any ticket or part thereof, or of any share or chance in any such gambling enterprise, lottery, gift enterprise, or scheme, or for the purchase of, or in payment of any chance taken on, any punchboard or pushcard, or in payment of any bet or wager in connection with any gambling enterprise, lottery, gift enterprise, or scheme of any kind offering money or other prizes dependent in whole or in part upon lot or chance; or

"any newspaper, circular, pamphlet, or publication of any kind containing any advertisement of, or soliciting any business in connection with, any

gambling enterprise, lottery, gift enterprise or scheme of any kind, offering money or other prizes dependent in whole or in part upon lot or chance, or containing any list of the prizes to be drawn or awarded by means of any such gambling enterprise, lottery, gift enterprise, or scheme, whether such list contains any part or all of such prizes, or containing any advertisement of any punchboard or pushcard.

shall be fined not more than \$1,000 or imprisoned not more than two years, or both; and for any subsequent offense under this section shall be imprisoned not more than five years.

"(b) Whoever knowingly takes or receives any paper, certificate, or instrument purporting to be or to represent a ticket, chance, share, or interest in or dependent upon the event of a lottery, gift enterprise, or similar scheme, offering prizes dependent in whole or in part upon lot or chance, or any advertisement of, or list of, the prizes to be drawn or awarded by means of any such lottery, gift enterprise, or similar scheme, which have been brought into the United States or deposited with any express company or any other carrier for compensation, or carried in interstate or foreign commerce, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

"(c) All matter, the mailing of which is forbidden by subsection (a) hereof, is hereby declared to be nonmailable and shall not be conveyed in the mails nor delivered from any post office, nor by any letter carrier, but shall be withdrawn from the mails under such regulations as the Postmaster General may prescribe.

"(d) For the purposes of this section the phrase 'punchboard or pushcard' shall include such boards, cards, or similar devices designed and manufactured primarily for use in connection with gambling, but shall not include devices numerically keyed to an answer sheet or containing no numerical identification of individual plays and designed and manufactured primarily for amusement purposes.

"§ 1302. Postmaster or employee as gambling or lottery agent

"Whoever, being a postmaster or other person employed in the postal service, acts as agent for any gambling or lottery office, or, under color of purchase or otherwise, sends gambling or lottery tickets, or knowingly sends by mail or delivers any letter, package, postal card, circular, or pamphlet advertising any gambling enterprise, lottery, gift enterprise, or scheme, of any kind offering money or prize dependent in whole or in part upon lot or chance, or any ticket, certificate, or instrument representing any chance, share, or interest in or dependent upon the event of any such gambling enterprise, lottery, gift enterprise, or scheme, or any list of the prizes to be drawn or awarded by means of any such gambling enterprise, lottery, gift enterprise, or scheme, whether such list contains any part or all of such prizes, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

"§ 1303. Broadcasting gambling or lottery information

"Whoever broadcasts by means of any radio station for which a license is required by any law of the United States, or whoever, operating any such station, knowingly permits the broadcasting or, any advertisement of or information concerning any gambling enterprise, lottery, gift enterprise, or scheme of any kind offering money or prizes dependent in whole or in part upon lot or chance, or any list of the prizes to be drawn or awarded by means of any such gambling enterprise, lottery, gift enterprise, or scheme, whether such list contains any part or all of such prizes, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

"Each day's broadcasting shall constitute a separate offense.

"§ 1304. Fishing contests; track racing events; foreign publications

"The provisions of this chapter shall not apply with respect to—

"the sponsorship, management, or advertisement of any fishing contest not conducted for profit wherein prizes are awarded for the specie, size, weight, or quality of fish caught by contestants in any bona fide fishing or recreational event;

"the sponsorship, management, or advertisement of any track racing event to which the general public is admitted and upon which betting is legal under applicable State laws; or

"the importation and distribution of any foreign newspaper, pamphlet, or other publication distributed as a bona fide medium for news, information, or opinions in any foreign country."

Mr. HILLINGS. Mr. Walter Armstrong, Jr., chairman of the criminal law section of the American Bar Association, is appearing before the subcommittee today in connection with hearings on other bills. As he may not be able to attend a later hearing on H. R. 7975, we will be glad to receive his statement on H. R. 7975 at this time.

STATEMENT OF WALTER ARMSTRONG, JR., CHAIRMAN, CRIMINAL LAW SECTION, AMERICAN BAR ASSOCIATION

Mr. ARMSTRONG. I should like to comment on H. R. 7975, a bill the effect of which is to extend the Lottery Act to include gambling enterprises. That particular bill has not been specifically approved by the American Bar Association as such. However, in 1951 a bill which then bore the number of S. 1624 was endorsed by a committee which was known as the Commission on Organized Crime, and upon the recommendation of that committee was approved by the American Bar Association.

That bill included all the provisions which are presently embodied in H. R. 7975 and also some other matters which are not pertinent at the moment. On the basis of that, I feel I can say that the principles embodied in H. R. 7975 have met with the approval of the American Bar Association.

Mr. HILLINGS. Thank you, Mr. Armstrong.

The subcommittee will now adjourn subject to the call of the Chair.



PROHIBITING CERTAIN ACTS AND TRANSACTIONS WITH RESPECT TO GAMBLING MATERIALS

WEDNESDAY, JUNE 9, 1954

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE No. 2 OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D. C.

The subcommittee met, pursuant to call, at 10:15 a. m., in room 230, Old House Office Building, Hon. Patrick J. Hillings (subcommittee chairman) presiding.

Present: The Honorable Messrs. Hillings, Robsion, and Poff.

Also present: Mr. Malcolm Mecartney, committee counsel.

Mr. HILLINGS. The committee will come to order. We will consider at this time H. R. 7975, a bill to prohibit certain acts and transactions with respect to gambling materials. We have with us this morning the author of the legislation, the gentleman from New York, Mr. Keating. I also understand that our colleague Hon. Clifton Young of Nevada also wishes to testify this morning. We will hear first from Mr. Keating. He will be followed by Mr. Young.

(The bill H. R. 7975 appears above in the record of the previous day's hearing.)

Mr. HILLINGS. Mr. Keating.

STATEMENT OF HON. KENNETH B. KEATING, A UNITED STATES REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. KEATING. Mr. Chairman and members of the committee, H. R. 7975 is a measure directed at the interstate operation of gambling syndicates, which is still the dominant activity of big-time racketeers and hoodlums identified with organized crime. The bill appears lengthy and complicated because in the drafting it was easier to reproduce the entire present text of chapter 61 of title 18 of the United States Code, which it amends, instead of merely inserting the changes one by one throughout the present text where they belong. But actually the changes in the present law are not very extensive or sweeping.

Chapter 61 is the Lottery Act, first passed by Congress in 1895. This act is of special historical interest because it was the very first of such measures, enacted by Congress for the purpose of assisting the several States in enforcing their own criminal laws. This was the first use of the interstate commerce power to strike at offenses which had been, up to that time, purely local in character.

It is interesting that the initial problem arose out of one type of gambling activity. It is also noteworthy that from that day to this

there has been practically no national-scale lottery operation comparable to the nationwide bookmaking and slot-machine empires. So the act has served its purpose throughout all these years, though of course there have been extensive lottery and "numbers" operations on an intrastate basis where Congress has never sought to interfere.

That division between interstate and intrastate activities still reflects my philosophy in approaching law-enforcement problems in this general area of organized crime. I don't think Congress ought to put Uncle Sam in the law-enforcement business with respect to offenses that are confined within a single State or local community. I think that has always been up to the State and municipal authorities to deal with, and that it should be left that way. What Congress is concerned with is the interstate ramifications of these activities, and the way they have grown from time to time by making use of interstate commerce. That is what the Federal laws should put an end to.

Since the Lottery Act, there have, of course, been many, many similar laws in other fields, spreading Congress' constitutional powers over interstate commerce through a whole wide range of prohibitory law. I am going to talk more about that when I discuss the other bill your subcommittee is considering today, H. R. 7118. Suffice it to note here that H. R. 7975 simply broadens this oldest of all the statutes, the Lottery Act.

The important change in substance is very simple. The present language limiting the operation of the prohibitions contained in the act is—

lottery, gift enterprise, or similar scheme offering prizes depending in whole or in part upon lot or chance—

the bill adds the phrase "gambling enterprise," and revises the last phrase so that the controlling definition now reads:

gambling enterprise, lottery, gift enterprise, or scheme of any kind offering money or other prizes dependent in whole or in part upon lot or chance.

That is the first change.

Secondly, punchboards and pushcards are added to the other materials prohibited, with a careful definition, which you will find at page 4, lines 11 through 17, so as to reach only the gambling types of boards and cards.

Perhaps I should note why these latter devices are included. There is nothing wrong with most punchboards and pushcards per se, and a lot of people think that no great harm will come from paying a nickel to punch one to win a box of candy or some other prize of relatively small value. That is not the objection. The trouble is that these devices, like the gambling slot machines and coin machines, lend themselves especially to forced distribution by racketeers.

Anything like this that has to do with gambling, instead of the vending of merchandise or services, is especially susceptible of exploitation by gangs of hoodlums. They force the cigar storeowner, the druggist, or the small merchant to put the boards or other gambling devices in his place of business and then they collect all but a small cut of the proceeds. This has happened again and again, frequently backed up by violence or threats of violence and sometimes exposing the innocent shopkeeper to all the terrors of a gang war, when rivals fight over these lucrative rackets. This kind of punchboard is actually a form of lottery, and since it serves no socially useful purpose,

I think it should be knocked out of interstate commerce along with other lottery paraphernalia.

Adding the words "gambling enterprise" throughout will have the effect of barring from interstate commerce equipment designed for use in bookmaking establishments, illegal gaming houses, and so forth. It will put the bookmaker on the same footing as the lottery operator, confined to local activities and cut down to size where the local authorities can deal effectively with him if they wish to.

The first two sections of chapter 61, sections 1301 and 1302, have been consolidated into the new section 1301. Since the first of these dealt with importing and transporting such materials, and the second had to do with mailing the same, it seemed logical and proper to write them into a single provision.

In the subsequent sections, relating to postal employees and broadcasting activities, the same change has been made, adding the word "gambling" before the word "lottery" in the controlling definition.

In the last section, 1305 in chapter 61, which is renumbered 1304 in my bill, relating to fishing contests, a limitation is added that the exemption for such contests shall extend only to the "sponsorship, management, or advertisement" of such contests. This was deemed necessary, in relation to the broadened scope of the preceding sections, to make certain that the fishing-contest exemption—which is retained in this legislation—will not be abused as a sham to cover activities which are really purely gambling schemes in their nature.

Some concern has been expressed in the past that the broadened language of the act might be construed to interfere with the interstate shipment of equipment and paraphernalia used at legalized racetracks in connection with parimutuel machines, and so forth. While there is a fair question as to whether any such equipment would be affected, the problem is dealt with by the exemption appearing at lines 10 to 13 on page 6. I believe this should take care of the situation, but I call it to the attention of the committee specifically for its study.

It has also been pointed out that the expanded provisions of section 1301, as to the importing and mailing of newspapers and periodicals advertising gambling enterprises, and so forth, might result in curbing the distribution of eminently respectable publications like the London Times, because of advertisements for the sweepstakes, national lotteries, and the like. Therefore, to avoid this consequence, another exemption has been added on page 6 at lines 14–17.

Since introducing the bill I have received several communications suggesting a possible amendment. I think it is a meritorious suggestion, and I should like to note it in this record so that your subcommittee may consider it as it considers the bill.

This comes from the sponsors of the so-called giveaway campaigns and programs, in which prizes are awarded by lot or chance, but without any consideration from the recipient. These people are very worried that our deletion of the word "similar" before the word "scheme" throughout the controlling definition will result in their operations being curtailed or prohibited in interstate commerce also. Some of those operations get pretty close to a lottery when they require acts that look like consideration—for instance, the purchase of a particular product, a visit to the sponsor's showrooms, and so forth. But it was not my intention to bring such things as this

arbitrarily within the scope of chapter 61. It is probably adequate to leave the question of consideration to the courts, which would be the result of reinserting the word "similar" and deleting the phrase "of any kind." This I would, therefore, recommend, and I am handing the reporter a copy of the bill with the places where the insertions and deletions ought to be made marked upon it. This phrase "scheme of any kind," which I suggest changing back to the present wording, "similar scheme," appears a number of times through this bill.

• Thank you very much for letting me describe this bill. I think it is an important measure in support of the efforts of the States to deal with organized crime, and I hope it will receive your favorable consideration.

I want to make one further comment. I received a letter from Mr. Abe Fortas, attorney, of Washington, dealing with this question I mentioned a moment ago, and in my reply I stated to him that I would call attention to his letter at my presentation at this hearing. I therefore do so, and will leave the letter with the counsel, or with the committee, for such disposition as they wish to make of it.

Mr. HILLINGS. You are not offering it for the record?

Mr. KEATING. If the committee would like to put it in the record, I certainly have no objection. It deals with this point I have just made. He apparently represents one of these groups of people that are concerned about this word "similar."

He makes a further suggestion for amendment which the committee might want to consider. I rather have the feeling it is a lawyer's effort, very commendable and very proper, to get all he can for his client. I don't think that the suggestion he makes for adding all the words underlined there in his letter is necessary. I believe that the problem that he raises, which has been raised by one or two others similarly situated, is covered by the reinstatement of the words "similar scheme" rather than "a scheme of any kind."

Mr. HILLINGS. If you wish to offer it for the record as part of your testimony, Mr. Keating, that will be accepted.

Mr. KEATING. Well, in fairness to Mr. Fortas who sent me the letter I think I should call it to the attention of the committee, and if the committee desires to put it in the record I should be happy to have it do so.

Mr. HILLINGS. We will leave it in the custody of the counsel of the committee to be placed in the file where it will be available to the committee. If Mr. Fortas wishes to make a formal statement, the committee will be glad to receive his statement, either orally or in writing.

Mr. KEATING. I might comment briefly, if you would care to have me, on the communications recently received by the committee from the Federal Trade Commission and the Postmaster General with reference to this legislation. It is not a part of my prepared testimony. I have just had my attention called to these communications. Perhaps a word would be helpful to the committee.

Mr. HILLINGS. Are you speaking of the communications from the Federal Trade Commission addressed to the chairman of the Judiciary Committee?

Mr. KEATING. Yes.

Mr. HILLINGS. The committee, of course, has received those. In addition to the report from the Federal Trade Commission, we have one

from the Postmaster General. Are there any additional reports, Mr. Counsel?

Mr. KEATING. Those are the only two that have been called to my attention of which I have received copies.

Mr. MECARTNEY. There is one from the Interstate Commerce Commission.

Mr. HILLINGS. We have received a report from the Interstate Commerce Commission.

Mr. KEATING. Perhaps so.

Mr. HILLINGS. Did you just want to briefly summarize what these reports say?

Mr. KEATING. I thought I would comment on the reports if I might.

Mr. HILLINGS. Excuse me a moment. Mr. Robsion.

Mr. ROBSION. I was just wondering before we leave this letter if you would care to comment on it as to whether or not you want to suggest as an amendment to your bill the amendment suggested by Mr. Fortas.

Mr. HILLINGS. When you say "this letter," you are referring to the letter from Mr. Fortas addressed to Mr. Keating?

Mr. ROBSION. Yes.

Mr. KEATING. I would think, to answer your inquiry, the amendment which I did suggest, namely, to reinsert the word "similar" ahead of "scheme" and strike out the words "of any kind" so that it would read now "to any similar scheme" rather than a "scheme of any kind" would cover his point without the addition of the words which he has underlined in his amendment. I do recommend that change. But I do not recommend the change precisely in the language he has asked.

Mr. ROBSION. Are you in agreement with the substance—

Mr. KEATING. Yes. I think his point is well taken, and it has been made by 1 or 2 others. It was not my intention to interfere with the activities such as his client engages in and others similarly situated.

Now, the Federal Trade Commission report is generally favorable. I note with satisfaction that they observe that H. R. 7975 would, as they put it, substantially contribute to the Commission's efforts with respect to the elimination of certain gambling devices.

It is suggested that language similar to that used in the Slot Machine Act of 1951, providing that the act shall not be construed to interfere with or reduce existing authority of the Commission, ought to be added. Specific language for this purpose is submitted on page 3 of the Commission's letter. I am entirely in accord with their purpose in this respect and would have no objection to adding the language which they suggest in their letter.

Mr. HILLINGS. That language basically is that nothing in the act shall be construed to interfere with or reduce the authority of the Federal Trade Commission, is that right?

Mr. KEATING. That is right.

Mr. HILLINGS. Maintain their jurisdiction as it exists today?

Mr. KEATING. That is right. A second point not pressed quite as vigorously by the Commission is that it would be desirable to specify for inclusion within the provisions of the act punchboards and punchcards to be used in connection with the sale or distribution of merchandise by chance.

I think this might pinpoint our definition too much. The definitive language contained in the bill at lines 11 through 17 on page 4 was

carefully worked out with representatives of the industry, I understand, several years ago when this problem first came up. This legislation is the result of several years of study. If for this language were substituted an arbitrary provision outlining these devices when used to distribute merchandise, a carefully developed body of case law on the question of consideration which ordinarily controls the gambling nature of such devices would be wiped out by legislative fiat. I commend the matter to your further study. They want to tighten this up even more than this bill provides. But I am strongly inclined to urge that you leave the existing definition as it stands on page 4, with the addition urged by the Commission of language to make certain that nothing in the act is going to interfere with existing interpretations and authority previously established by its efforts. That is the first point referred to.

Now, the comments from the Post Office Department, which are not generally unfavorable I would say, are somewhat confusing, for the Department specifically approves most features notwithstanding an adverse recommendation at the conclusion.

Subsection (c) on page 4 of the bill was a suggestion which came originally from the Post Office Department itself. Insofar as the Department urges a more elaborate and specific definition of the word "gambling" I agree that there are arguments in favor of a more specific definition. But there are as many pitfalls in extreme specification as there are in the use of generic terms. If you draw the lines too finely, you invite technical constructions which would avoid the purpose you are trying to reach. It seems to me that we would be better off, at least at the outset, to see what the courts are willing to read into the general inclusive phrase "gambling enterprise" instead of trying to anticipate a lot of specific situations and possibilities and write them into an elaborate definition. That, of course, is a matter for the policy of this committee. They want to spell that out, that "gambling enterprise," much more fully. It seems to me you are getting into a good deal of difficulty on that.

As for the suggestion that letters and postal cards be included at line 3 on page 3, which is a point they make, it was our view and intention that the enumeration on page 2, line 5, which is subject to the same controlling provisions was all-inclusive and therefore would render any reference to the same at the later point unnecessary and potentially confusing.

But I have no particular objection to that, if it is felt by the committee that their point is well taken.

As for the Department's fears about the exclusion for the bona fide foreign newspapers—they are sort of worried about that—we anticipated the possibilities of abuse under this exemption, and that is why foreign publications, to qualify, must be "distributed as a bona fide medium for news, information, or opinions" in some foreign country. This is a flexible test which would rule out anything that was really fraudulent while at the same time leaving the mails and interstate transportation open for all bona fide publications.

I would most strongly urge that such an exemption as we have there provided be left in. If there is risk in it, it is a risk we are obliged to take since to deny entry to foreign periodicals simply because they happen to refer to some gambling operation abroad, it

seems to me, would be quite unthinkable and might jeopardize the soundness of the entire act.

Mr. POFF. May I ask a question at that point? What would prevent a gambling establishment in this country from advertising in the London Times and thereby beg the whole purpose of this bill?

Mr. KEATING. I suppose that would be a possibility. But the exemption is for the periodical, and not for the advertiser; and anyway, the practical side of that seems to be that any such foreign periodical normally would have a very limited circulation in this country. It just wouldn't be a practical way of their endeavoring to get their ideas across. I suppose it is a possibility and perhaps should be dealt with specifically by amendment to that exemption provision.

Mr. HILLINGS. Mr. Keating, this legislation has the support of the American Bar Association?

Mr. KEATING. Yes, it does, and Mr. Walter Armstrong, chairman of the criminal law section of the American Bar Association, is here this morning to testify.

Mr. HILLINGS. Have any other organizations that you know of endorsed this legislation?

Mr. KEATING. Not that I know of. Do you know, Mr. King?

STATEMENT OF RUFUS KING, SECRETARY, CRIMINAL LAW SECTION, AMERICAN BAR ASSOCIATION

Mr. KING. Not to my knowledge, specifically.

Mr. HILLINGS. Would you identify yourself, Mr. King, for the record?

Mr. KING. I am Rufus King. I am secretary of the criminal law section of the American Bar Association and have served as counsel on several committees which were interested in legislation of this type. So I am familiar with the background problems.

Mr. HILLINGS. Mr. Robsion?

Mr. ROBSION. No questions.

Mr. HILLINGS. Mr. Poff?

Mr. POFF. Not at this time, Mr. Chairman.

Mr. HILLINGS. Mr. Counsel, do you wish to direct any questions to the witness at this time?

Mr. MCCARTNEY. No, Mr. Chairman.

Mr. HILLINGS. Mr. Keating, I think you have given us a fine statement for the basis of your argument in support of the legislation and an analysis of it. Of course, we will have to hear the other testimony in regard to it. I believe that is all that we will require from you at this time.

Mr. KEATING. I appreciate that. I will just stand aside to be heard later on the other bill that is coming up this morning.

Mr. HILLINGS. The next witness will be the Honorable Clifton Young, our colleague from Nevada.

Mr. Young, may I say at the outset that as chairman of this subcommittee I received a communication from you expressing the desire to be heard and also expressing the observation that a number of the officials from the State of Nevada, government officials there, probably wish to testify. In that connection I received a telegram from the Honorable Charles Russell, the Governor of Nevada, who asked permission to be heard along with others on this question.

I have advised him, and I have advised you, that we certainly will be happy to receive testimony from any such government officials, and that no action will be taken by the subcommittee until such time as they have had an opportunity to be heard in concurrence with your wishes and those of the Governor of Nevada.

STATEMENT OF HON. CLIFTON YOUNG, A UNITED STATES REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEVADA

Mr. YOUNG. Thank you, Mr. Chairman. I appreciate the opportunity to appear before the committee and present testimony on this bill. I might say at the outset that we in Nevada do not oppose the general purpose of the bill as presented by our colleague from New York if I understood him correctly.

He stated this is a measure directed at the interstate operations of gambling syndicates, which is still the dominant activity of the big-time racketeers and hoodlums identified with organized crime. I am sure the people of Nevada are behind this laudable movement to bring under control organized crime syndicates. But H. R. 7975 goes much further than that. It would, for all practical purposes, wipe out what is considered a legitimate industry in the State of Nevada.

The bill while controlling interstate gambling would destroy one of the important industries in the State. The Government would be somewhat like the farmer who uses a shotgun in his chickenhouse to kill a fox. A scattergun approach would destroy not only the fox but some of the chickens as well.

With the permission of the committee I would like to briefly explain how the bill would have an adverse effect on our industry. The bill purports to amend the Lottery Act by inserting the words "gambling enterprise" after "lottery, gift enterprise and similar scheme." It combines section 1301 and 1302 of the existing law into a new section 1301.

The new section 1301 prohibits the use of interstate transportation and communication facilities to transport, or convey gambling materials and information.

A strict interpretation of the language would lead to the conclusion that it would be impossible for a gambling club to advertise in a local paper if shipped interstate. There are some 30 or 35 newspapers in the State with out-of-State subscribers, many of which carry advertising of local hotels and motels. Furthermore, it would make it illegal to advertise gambling over the radio. I am sure the out-of-State radio listeners are very limited and would probably not be adversely influenced but the prohibition would nevertheless apply.

Mr. HILLINGS. Isn't it true that in the State of Nevada almost every retail enterprise has slot machines or some indicia of gambling, and certainly almost every small retail business would be affected directly by this legislation?

Mr. YOUNG. That is very true. The Federal tax on slot machines is so heavy at the present time that most of the smaller operators have been driven out of business. The payment of local taxes makes it almost prohibitive to have slot machines unless the location is exceptionally good.

Tourism is undoubtedly the biggest industry in the State of Nevada at the present time. The State was once well known for its mining

industry but because the price of minerals has declined our mines have waned in their relative economic importance. It is impossible for me to state at the present time, just how much of the economy of the State of Nevada is tied up directly or indirectly with tourism, but sufficient to say that it is very substantial.

Of course, we in Nevada recognize the fact that tourism is directly or indirectly tied up to some extent with gambling enterprises. In Las Vegas there are a number of large hotels with gambling. The same is true in Reno. The bulk of the trade in those establishments comes from out of the State. A substantial percentage of the people gainfully employed in the State of Nevada are directly or indirectly benefited by gambling. I refer not only to gamblers and those who work in connecting restaurants but those who work in service stations, garages, motels, and hamburger stands, and any other businesses which reap benefits from the visitors drawn to our State.

Additional facts on the impact of this bill on the economy of Nevada should be brought to the committee's attention. That is why I am hopeful that more testimony can be presented at a later date. The people of Nevada legalized gambling in 1931. It is controlled both at a State and local level. A State tax commission investigates applicants who desire to participate in this form of Nevada industry. Those found to have unsavory connections or considered undesirable are denied access to this industry.

Our State tax commission works closely with the Federal Bureau of Investigation and certain of the crime commissions throughout the United States.

I think the actions of the officials of the State of Nevada in the past have indicated that we are as anxious as the sponsor of this measure to clean up organized crime syndicates. Not long ago one of our most able district attorneys appeared before the Supreme Court of the United States in support of legal proceedings to prevent our State from being a sanctuary for a person sought by legal authorities elsewhere.

I want to emphasize that if H. R. 7975 is not amended it would for all practical purposes destroy the gambling industry in the State of Nevada. Section 1301, paragraph (n), states in effect that it will be an illegal act to knowingly carry in interstate or foreign commerce, any check, draft, bill, or money for gambling purposes. Thus H. R. 7975 would make it illegal for anyone to carry even small change into the State of Nevada if they intended to wager. If a 5-cent piece were played in a slot machine it would, per se, make the person who deposited the coin a criminal under the provisions of this bill.

Mr. HILLINGS. By the same token, in accordance with your interpretation of that section, if money were obtained through gambling devices in the State of Nevada, in other words, winnings through gambling, and were carried across the State line into Utah or some other State, that in itself might constitute a crime?

Mr. YOUNG. I think that interpretation might be reasonably drawn from the language.

The expressed purpose of the bill is good. If there is some way of amending it so as to exclude gambling activities where a State has legalized them, I would have no objection to this measure. If the bill were passed, it would cause great economic chaos and disturb-

ance in the State of Nevada. I don't think the author of the legislation had this in mind, according to the testimony which he submitted this morning.

With an appropriate amendment the bill could accomplish the very laudable goal which he expressed and at the same time not disturb what is considered by the State of Nevada to be a legitimate economic activity. I would like to return at a later date, with more statistics and a thorough expression of the position of Nevada. I was notified of the hearing on Friday, June 4. I wasn't able to call the committee room until the following Saturday morning, June 5, and no one was there. It was Monday before I could determine how many days were scheduled for the hearings. Because of the impact this legislation has on the State of Nevada, I hope we will have an opportunity to present more testimony.

Mr. HILLINGS. I can state that when the committee concludes the testimony today no action will be taken until there is further notice of hearings, of which you will be given ample notice, as will the Governor of Nevada. We will be glad to obtain further testimony of you and your associates at that time. Mr. Robsion?

Mr. ROBSION. You say that in your opinion you and the author of the bill are in agreement as to the necessity of legislation somewhat of this type, that you are in accord on the major objectives.

As a member of the committee, I would appreciate it if during the interim between now and the next hearing you and the author would get together and try to work out something where the bill will reflect your agreement and at the same time not destroy the objectives of the legislation.

Mr. YOUNG. I would be very glad and pleased to work with the author of the bill.

Mr. KEATING. May I make a comment on that? Mr. Chairman, I appreciate the fact that Nevada is rather unique among the States in its economy. I appreciate thoroughly the position that Mr. Young takes and the able presentation that he has made. It is exactly the position which he would be expected to take as a representative of the State of Nevada.

I would be very mappy to receive from him any suggestions for amendment of this bill in a manner to eliminate the fears which he expresses. I welcome the suggestion that Mr. Robsion made. I think that perhaps some of his fears may not be thoroughly justified, and that I might be able to disabuse his mind on that.

The idea expressed by the chairman, that it would be illegal under this to take money earned in gambling out of Nevada, I don't believe that would be prohibited by this bill. But I do think that Nevada is one of the sovereign States of the Union and we should give proper recognition to its peculiar economy. On the other hand, I don't think that we should write legislation for the entire country based only upon the situation in Nevada.

I appreciate the very frank and forthright manner in which the Representative from Nevada has stated that he is in favor of the general purposes of the legislation. I am hopeful that we can work out something that will protect them and still bring about the salutary results we hope for from such legislation.

Mr. ROBSION. Off the record.

(Discussion off the record.)

Mr. HILLINGS. Mr. Poff, do you have any questions?

Mr. POFF. Do I understand, Mr. Young, one of your fears is that this legislation might prohibit the interstate transportation of the paraphernalia and equipment used in gambling houses?

Mr. YOUNG. I think it would, according to its present terminology. There is legislation now on the books which requires a manufacturer of certain types of gambling equipment to number his products so it can be identified. In States where gambling isn't legal it is barred in interstate shipment.

But there is a specific exception in the legislation which provides that where a State has legalized gambling the paraphernalia can be shipped in interstate commerce.

Mr. POFF. Similar to the fireworks bill?

Mr. YOUNG. I think so.

Mr. POFF. I wish you would, for the benefit of the record, point out the particular language which you think might create that prohibition. I fail to find it in reading the bill.

Mr. YOUNG. I thought there might be some possibility of that interpretation in regard to punchboards or punchcards.

Mr. POFF. That wouldn't prohibit the importation—

Mr. YOUNG. I might be mistaken with regard to the paraphernalia.

Mr. POFF. Mr. Keating in his testimony said that some concern had been expressed that the broadening language of the act might be construed to interfere with interstate shipment of equipment and paraphernalia and indicated that the exception at line 10 on page 6 might cure that objection. But in the language that appears there I find nothing that refers directly or indirectly to equipment or paraphernalia as such.

Mr. YOUNG. I think you might be right on that although the title of the bill at first made me conclude otherwise.

Mr. KEATING. It is covered by the language at lines 10-13 on page 6. I might also call to your attention the existing section 1172 of title 15 about the transportation of certain gambling devices from one State to another, which contains this proviso—this is in that law now—on the transportation of gambling devices; it might be a pattern for something which we could write into this law—it says:

Provided, That this section shall not apply to transportation of any gambling device to a place in any State which has enacted a law providing for the exemption of such States from the provisions of this section or to a place in any subdivision of a State if the State in which said subdivision is located has enacted a law providing for the exemption of such subdivisions on the provisions of this section.

In other words, that would leave the autonomy in the State to make an exception from the provisions of this law.

Mr. POFF. Do you think as it is now written it would apply to the changes made in your bill, that is to say, would it be necessary to add that proviso to your bill in each particular section or would this section cover all of them?

Mr. KEATING. I think it would have to be in this bill to effectuate—well, let us say, roughly, to make Nevada an exception, because this proviso which I have just read is in another law dealing with the knowing transportation of certain gambling devices from one State to another. That is not in this particular bill before us here. I com-

mend it to your thought as a possibility of something which we might be able to write into this section.

Mr. YOUNG. What is that section?

Mr. KEATING. Section 1172 of title 15, United States Code.

Mr. HILLINGS. Do you have anything further, Mr. Poff?

Mr. POFF. No.

Mr. HILLING. Mr. Young?

Mr. YOUNG. No; I do not.

Mr. HILLINGS. Thank you for appearing at this time. We will probably hear from you later.

We will receive testimony at this time from Mr. Walter Armstrong, Jr., chairman of the criminal law section, American Bar Association.

STATEMENT OF WALTER ARMSTRONG, JR., CHAIRMAN, CRIMINAL LAW SECTION, AMERICAN BAR ASSOCIATION

Mr. ARMSTRONG. Thank you, Mr. Chairman and members of the committee: First, I would like to apologize for my delay and to express my thanks to the committee for waiting for me. I was engaged in another hearing which I thought would terminate sooner. I deeply appreciate the courtesy you have granted me.

Mr. HILLINGS. If I may interrupt, we have had very comprehensive and well-presented statements in support of the two bills before us, H. R. 7975 and H. R. 7118, from our colleague, Mr. Keating.

In the interest of saving time, would it be possible for you, without jeopardizing in any way your presentation, to just indicate your feeling rather briefly on the legislation? I don't believe it will be necessary to fully explain it in view of the fact that Mr. Keating has done a pretty good job.

Mr. ARMSTRONG. It certainly will be, Mr. Chairman. I will be brief and will eliminate any analysis or discussion of the bill itself unless the members of the committee desire to ask me questions.

Mr. HILLINGS. In order to make sure that you have the opportunity to present all the points that you desire, you may do so in a prepared statement now or submit one at a later date.

Mr. ARMSTRONG. I would like permission to do that, if it is necessary to do so.

Mr. HILLINGS. You may do so if you wish.

Mr. ARMSTRONG. My name is Walter Armstrong, and I am appearing on behalf of the American Bar Association. I am chairman of the criminal law section.

My purpose is to state the official position of the American Bar Association on H. R. 7975.

That bill as such has never been presented to the American Bar Association. However, there was a bill pending in the 82d Congress under the designation S. 1624 which was presented to the house of delegates at the annual meeting of the association in 1951 and was at that time approved, and the present H. R. 7975 is exactly the same as section 1 of that bill. I therefore feel with that background that I am empowered to say that the American Bar Association has approved at least the principles embodied in this present bill, and supports them.

Again, unless there is further information desired, that states our position in regard to that particular piece of legislation

Mr. HILLINGS. Mr. Poff?

Mr. POFF. Mr. Armstrong, I direct your attention to line 17 on page 2. The objection has been made that if that language is left unchanged it would prohibit the person residing in a State say contiguous to Nevada from carrying money, loose change, or bills in his pocket across the State line for the purpose of gambling. Do you think that objection is valid?

To assist you in answering, you will see that the language states that whoever knowingly carries in interstate or foreign commerce any check, draft, bill, postal or money order, and so forth.

Mr. ARMSTRONG. I must not have the same version of the bill. Mine says, "whoever knowingly brings into the United States." Do I have a different draft?

Mr. POFF. Here it is.

Mr. ARMSTRONG. I am sorry. I would think, sir, that technically if a person had money in his pocket and went into another State for the purpose of utilizing that money for gambling purposes, perhaps he would come within, as I say, the technical prohibition of that bill. However, I doubt if any court would find that, alone, to be "interstate commerce." And as a practical matter the enforcement or, should I say, the proof that a person carrying loose change in his pocket at the time of crossing a State line has the predetermined intent to use that for any specific purpose, gambling or otherwise, would be so difficult as to make it almost impossible to hold anybody on such a charge.

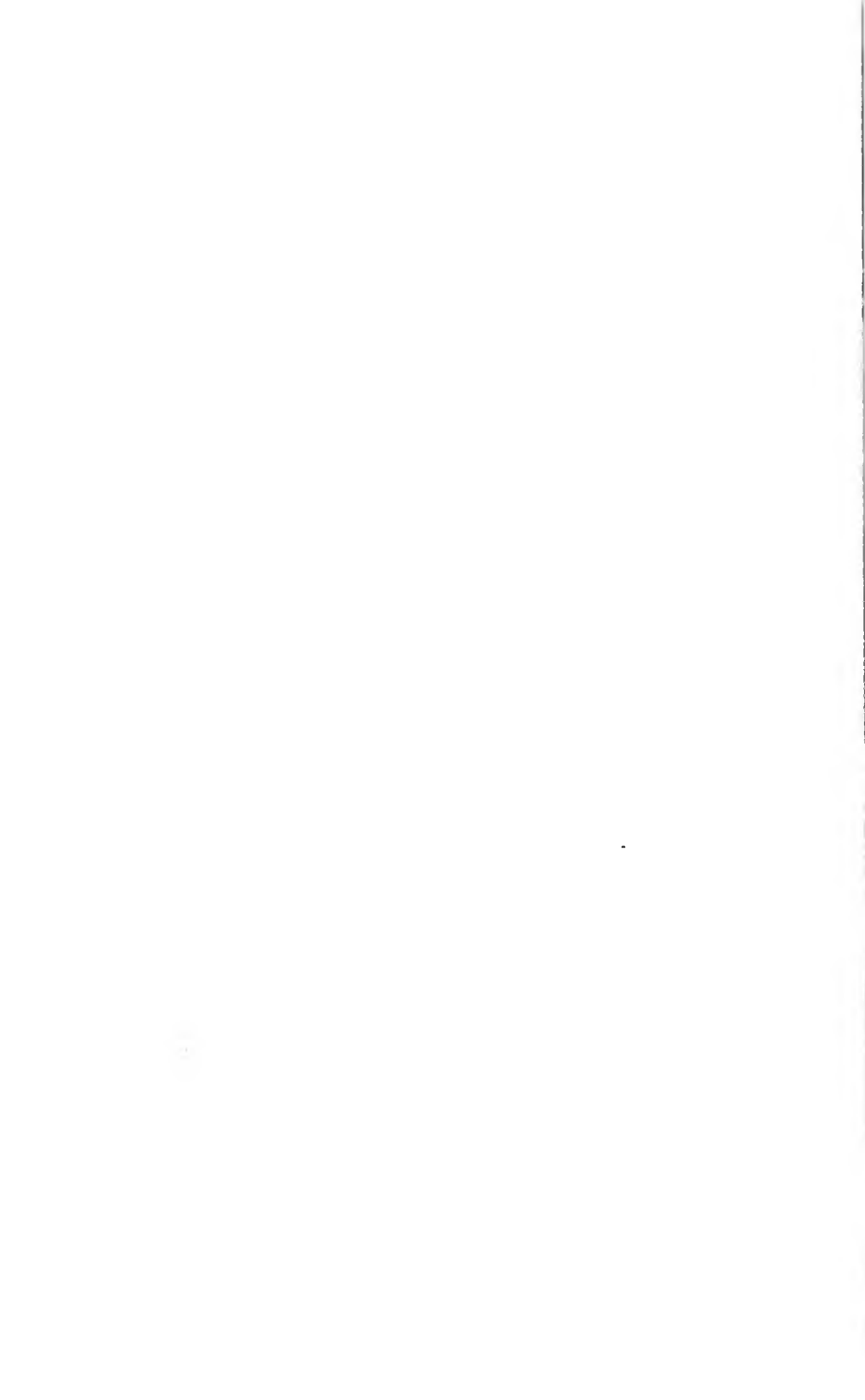
Mr. POFF. That is all.

Mr. HILLINGS. Mr. Armstrong, we thank you for your brevity and conciseness and for your consideration in appearing at the hearing today.

Mr. ARMSTRONG. Thank you again, Mr. Chairman, for your courtesies. I am sorry for the delay I caused.

Mr. HILLINGS. This concludes the hearings at the present time on H. R. 7975. There will be a further hearing on this proposed legislation in the near future. The committee stands adjourned.

(Whereupon, at 12 noon the subcommittee adjourned subject to the call of the chairman.)



PROHIBITING CERTAIN ACTS AND TRANSACTIONS WITH RESPECT TO GAMBLING MATERIALS

FRIDAY, JULY 9, 1954

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE No. 2, OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D. C.

The subcommittee met pursuant to notice at 10 a. m. in the committee room, 346 House Office Building, Hon. John M. Robsion, Jr., presiding.

Present: The Honorable Messrs. Robsion and Poff.

Also present: Mr. Malcolm Mecartney for the counsel.

Mr. ROBSION. We resume hearings this morning on H. R. 7975, and the first witness today is Hon. Charles H. Russell, Governor of the State of Nevada.

We will be glad to hear from you, Governor.

STATEMENT OF HON. CHARLES H. RUSSELL, GOVERNOR OF THE STATE OF NEVADA

Governor RUSSELL. Mr. Chairman, do you wish me to make a statement at this time?

Mr. ROBSION. Yes, Governor.

Governor RUSSELL. Mr. Chairman, I appreciate the privilege of appearing before this committee to present a statement on H. R. 7975 which is before you.

The State of Nevada has had controlled, legalized gambling since 1931 and I am wholeheartedly in favor of curbing any aspect of interstate gambling that might contravene existing Federal law.

I would like to emphasize in behalf of the State of Nevada, I am not opposing H. R. 7975 in its entirety, only those amendments which I feel acutely discriminate against my State.

The State of Nevada, being a frontier State, has always known open gambling. Nevada attempted to outlaw gambling for a period but chose to legalize it within its boundaries in 1931 as a means of more effective control. Since that date a tax on gaming has been integrated into our State tax structure and gaming has become a factor in our economy.

And let me point out, too, gentlemen, that Nevada has done an outstanding job in controlling the gambling industry the last 23 years.

The Nevada Tax Commission, which directly supervises all phases of gambling, has done a remarkable job in keeping gambling legitimate and aboveboard in Nevada.

H. R. 7975 as presently drafted would have a serious impact on the economy of the State of Nevada if enacted into law.

Should the amendment pass, it would automatically become a felony under Federal law to transmit through the mails or by any channel of interstate commerce, any information whatsoever about gambling.

Thus, a newspaper carrying any advertisement or information about gambling in Nevada could not be put in the mails or carried across the Nevada State line.

It will be noted that the words of the proposed bill describing the operation affected are completely embrative of the various types of gambling enterprises operated in the State of Nevada.

In other words, I feel that the amendment proposed under terms of H. R. 7975 would broaden the Federal Government's jurisdiction over all types of gambling, rather than merely restrict interstate lotteries and illegal gambling.

It would, in effect, mark another attempt by the Federal Government to further encroach upon the rights of the individual States.

I am confident that you gentlemen believe not only in the rights of an individual as guaranteed under the Constitution, but the rights and privileges of the individual, sovereign States.

All of you, I am sure, adhere to the concept that a sovereign State, insofar as is possible, should be allowed to run its own affairs without interference by the Federal Government.

Under the proposed amendment of the so-called lottery law, any person would be prohibited from carrying any money into the State of Nevada for purposes of betting in any of the gambling enterprises which are legal within the State.

It would also prohibit the cashing of a check to obtain money in Nevada for gambling. Such checks use the mails for collection, and I refer specifically to subparagraph 4 of subsection A, section 1301.

Further, subsection 5 would prohibit any newspaper which contained any advertisement or information of a gambling enterprise regardless of any mention of gambling from being transported by the mails or in interstate commerce.

It will also be observed, from a reading of section 1303 as proposed to be amended, that it would be a misdemeanor, punishable by a year's imprisonment or a \$1,000 fine, for any radio station in the State of Nevada to broadcast any advertisement of—or information concerning—any gambling enterprise, regardless of whether it means gambling.

Gentlemen, you can readily see how such a bill as H. R. 7975 would not only have a drastic effect on Nevada's economy, but would, as well, work a hardship on many of its other businesses and industries.

The proposed H. R. 7975 should be amended to exclude Nevada, because in its present form it is discriminatory toward only one State—and that State is Nevada, which, by virtue of its sovereign rights as 1 of the 48 States in the Union, has chosen to legalize gambling within its boundaries.

Nevada realizes it is unique in that it is the only State in the Union to have legalized gambling. As such, our State does everything possible to confine gambling within its boundaries.

Only recently the Nevada Tax Commission refused to license proposed games in northern Nevada, only 500 feet from the Idaho border, because members of the tax commission were convinced that gambling establishments in that remote area of the State would have been set up, not for the accommodation of Nevadans and its

many visitors, but primarily for residents of Idaho. And, Idaho, as you know, does not legalize gambling.

On July 1, 1952, Nevada moved to confine gambling within its boundaries.

On that date, the Nevada Tax Commission handed down a ruling, which to a large extent, curbed the interstate aspects of off-track racehorse betting by means of wire services. By its action, the Nevada Tax Commission banned the acceptance by licensed gambling businesses of all bets hitherto taken over the telephone or telegraph and acknowledged only those bets made and accepted "over the counter."

That action was taken so that Nevada would not be responsible for encouraging gambling outside its boundaries.

And the Nevada Tax Commission put teeth into that edict by informing licensed race-book operators that their licenses would be immediately revoked if they took racetrack bets other than over the counter.

As Governor of the State of Nevada and chairman of the Nevada Tax Commission, I point with pride to the fact that we as a State have cooperated fully with the Federal Bureau of Investigation, and with other Federal law-enforcement agencies in all matters pertaining to gambling, its operation, and control.

A check of these agencies will disclose that Nevada's cooperation in curbing interstate gambling has always been most enthusiastic.

Let me reiterate, and I cannot emphasize this too strongly, that the proposed bill, if enacted into law, would deal a mortal blow to the fundamental issue at hand—that of States rights—and more specifically, Nevada's State rights.

Nevada is, and always has been, willing and anxious to curb any aspect of gambling that might be contrary to Federal law just as the State has always acted with speed and forcefulness in curbing any aspect of gambling within its borders that has been illegal in any manner or form.

Present with me this morning is Mr. E. J. Questa, president of our largest bank, the First National Bank of Nevada, and Mr. Robbins Cahill, secretary of our State Tax Commission. These men are prepared to verify that the impact of H. R. 7975, as presently drafted, on our economy and tax structure would be severe. However, we do not wish to impose on your time in view of the evident desire of the sponsor of the measure to submit an amendment which will protect Nevada's sovereign privilege.

In closing, I once again want you to know how very much I, and the State of Nevada, appreciate your courtesy in hearing me on this matter which so vitally affects the economy of our State—the sixth largest in area but by far the smallest of the 48 in population.

I add that the general objective of H. R. 7975 is right and is commendable. But I most heartily disagree with those provisions which discriminate against my State of Nevada. I know you will give serious thought to amendments which will recognize Nevada's problem.

Mr. ROBSON. Mr. Poff, do you have any questions of Governor Russell?

Mr. POFF. Governor, I do not have any specific question at this point but I would like to say that we appreciate your attitude and

the fair-minded way you have approached this problem and your analysis of the part it plays in the economy of your State, and in that connection, I would like to pay tribute to your splendid representative from the State of Nevada, Congressman Young, who has been most persistent, careful, and deliberate in the approach which he has taken to this same problem.

Governor RUSSELL. Thank you very much.

We, too, fully realize in Nevada the fine work which Mr. Young has done, and we appreciate the cooperation and the good will that he has had with you gentlemen.

Mr. POFF. Thank you.

Governor RUSSELL. I also wish to thank Congressman Keating, author and sponsor of this bill for the splendid attitude he has taken. We have talked with him and we have found him to be very cooperative.

Mr. ROBSON. Congressman Keating, do you care to ask the Governor any questions?

Mr. KEATING. No, I do not have any questions to ask.

Mr. ROBSON. Mr. McCartney?

Mr. MCCARTNEY. No questions.

Mr. CELLER. May I ask a question of Congressman Keating?

Mr. ROBSON. Yes, Mr. Celler.

Mr. CELLER. Congressman Keating, because of our interest in bingo, would it affect the so-called bingo operations?

Mr. KEATING. No, it is not directed at that, no.

Mr. CELLER. It is not aimed at that?

Mr. KEATING. No.

Mr. ROBSON. That will be all, Governor, thank you.

Governor RUSSELL. Thank you very much, Mr. Chairman.

STATEMENT OF HON. CLIFTON YOUNG, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEVADA

Mr. ROBSON. Our next witness is Hon. Clifton Young, Member of Congress from Nevada.

Mr. YOUNG. Mr. Chairman and members of the committee, I appreciate this opportunity to appear before you and present further testimony on H. R. 7975. On the occasion of my former appearance it was suggested by the subcommittee that I confer with the sponsor of this measure, Representative Keating, in an effort to draft suitable amendatory language which would be acceptable both to the sponsor and myself. From a drafting standpoint the problem here was how to accomplish the goal of controlling interstate gambling syndicates identified with organized crime, without destroying or inflicting a serious damage upon an intrastate gambling industry where it is recognized as legal by local laws. A somewhat similar problem with respect to slot machines was met by a special exemption written into the act in 1951, which permitted any State to exempt itself from the restrictive effects of the act by special legislation. But here the language involved presented a far more perplexing task.

In H. R. 7975 the problem of preparing an amendment is even more challenging because of the indefiniteness surrounding the meaning of such terms as "interstate commerce," "lottery," and "gambling

enterprise." There are probably few men in Congress as cognizant as you of the broad and continually expanding compass of the words "interstate commerce"; and the word "lottery" though used less often, is likewise susceptible to a variety of interpretations, all of which have lead to much uncertainty as to what it means.

The Lottery Act of 1895, which would be amended by H. R. 7975, is one of the landmarks of Federal regulation in this field, with a number of judicial decisions interpreting its meaning and effect. A study of H. R. 7975 raised some serious questions concerning its impact upon gambling enterprises and activities which have for many years been considered legal under both State of Nevada and Federal laws.

First: Would it have made illegal the shipment of gambling materials, such as playing cards or gaming equipment, across State lines into a State where gambling activities are legal? Perhaps this is a strained construction, but if perchance a future court, uncertain as to the legislative intent, should so decide it would work great hardship upon a legalized activity in my State.

Secondly: There was raised a serious doubt as to the legality of the use of communication facilities where gambling establishments were mentioned. For example, would H. R. 7975 in its present form prohibit the advertisement in a local paper of an establishment which sponsored gambling activities? Such advertisements are run on occasion in most of Nevada's papers. These are essentially for intrastate consumption, but there are inevitably some out-of-State subscribers. Moreover, many of these papers are transmitted by mail within the State. Furthermore, many of the establishments where gambling is legalized in my State make use of radio and television facilities to advertise floor shows, meals, or gambling activities. The radio and television programs are essentially for intrastate consumption. Surrounded as Nevada is by high mountains, the out-of-State listeners or viewers are at a minimum. But who could say that out-of-State listeners or viewers would not be able to receive such programs. or that it is solely or exclusively an intrastate activity? Needless to say, if these commercials were prohibited it would work considerable hardship upon local newspapers, radio and television stations. And yet—in the absence of contrary legislative intent—a future zealous prosecutor might argue that a complete ban was required.

Third: Another concern is in the field of money and negotiable instruments. A large part of the business transactions connected with these establishments use checks in payment of obligations and purchase of equipment. In addition, patrons at the hotels and establishments make use of checks in settling obligations and participating in gaming activities. If the use of the mail system was prohibited as a means of sending such checks for collection or payment, there would be imposed another serious obstacle in the management and operation of a gambling industry.

Fourth: It was even suggested by respectable authority that the present language of H. R. 7975 would cast doubt upon the legality of carrying money across a State line into a State for the purpose of making a wager, even though wagering is legal where the bet is placed. It has been convincingly argued that such would not be prohibited under this bill, but a doubt still remained which it is felt would be eliminated by the amendment which will be submitted.

In brief, because of the language ambiguities, legal uncertainties, and difficulties of anticipating how future courts will interpret the provisions of the proposed legislation, I have perhaps been unduly motivated by an abundance of caution. I am concerned, however, lest an adverse interpretation of legislative intent result in great economic disturbance in an important part of the industry in my State, based on a statutory misinterpretation. For even though a correct interpretation be ultimately obtained, the months or years required would seriously cripple a legalized gambling industry.

I have consulted with Representative Keating and his staff. Language has been suggested which—although perhaps not in the most polished form and which should be studied further—will enable the author of this bill to accomplish his expressed purpose without destroying an essentially intrastate industry lying without the traditionally recognized scope of Federal jurisdiction, interest, or concern.

I respectfully urge that if the committee adopt an amendment to the bill that it will be possible to include therein, or the report which accompanies the bill, language which will effectively express committee intent that it is not the purpose of the bill to restrict or destroy gambling enterprise legalized in a State, or the operation reasonably incidental to their sponsorship, management, and operation, including transactions in aid of intrastate operation, which, however, may cross State lines as indicated by the foregoing examples.

I want to again express my appreciation to the members of the subcommittee for your kindness in permitting me to appear again before you and present testimony on H. R. 7975.

MR. ROBSON. Mr. Poff, do you have any questions of Mr. Young?

MR. POFF. Mr. Young, you referred a moment ago to an amendment you were going to propose.

MR. YOUNG. Mr. Keating will offer the amendment.

MR. POFF. I see. Do I understand from that that you and the author of the bill have come to some agreement about the amendment?

MR. YOUNG. I feel the amendment, in its present form, will enable the accomplishment of the purpose of the sponsor without destroying our Nevada gaming industry. There might be required some slight change in the wording, as a result of a shade of meaning that we have not foreseen or anticipated. It is a rather complicated field of terminology, but so far as I can see at the present time, it does accomplish the objectives.

MR. ROBSON. Any questions of Mr. Young by you, Mr. Keating?

MR. KEATING. No questions.

MR. ROBSON. Does counsel have any questions?

MR. MECARTNEY. No questions.

MR. ROBSON. Thank you very much, Congressman.

MR. YOUNG. Thank you, Mr. Chairman.

STATEMENT OF HON. KENNETH B. KEATING, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

MR. ROBSON. Our next witness will be the author of the bill, Congressman Keating, of New York.

MR. KEATING. Mr. Chairman, may I have Mr. Rufus King, who is secretary of the criminal law section of the American Bar Association, sit with me?

This is one of the bills which, you will remember, does have sponsorship of the American Bar Association, and it was introduced by me at their suggestion.

I want to express my thanks here for the fine attitude displayed by Congressman Clifton Young and by the Governor of the State of Nevada. I have had extensive conferences with Congressman Young, and he has taken the attitude which, in my view, makes a good legislator; that is, instead of just sitting down and saying "this bill is no good, I am against it," to try to see the constructive side of the bill and then try to work out with the author something which effects the purpose of the bill, but primarily protects his rights, too. And may I say that there was no one who more assiduously fought for the constituents that he represents than Mr. Young, in his dealing with me, and I want to make that a part of the record.

Since I testified on this bill before your subcommittee last month, it has been strongly represented to me that the legitimate gambling industry in the State of Nevada, and elsewhere in jurisdiction where gambling is or may be legalized under local laws, might be unfairly restricted and penalized by its provisions. As presently drafted, H. R. 7975 would bar from the mails and from interstate commerce all goods, writings, messages, and advertisements pertaining in any way to any gambling enterprise, including the management and the intrastate operations of such enterprises, whether they are legalized locally or not.

As I stated in my earlier testimony on June 9, I do not think any Federal legislation of this sort ought to put the Federal Government into the law-enforcement business with respect to offenses which are confined within a single State or local community. All we are trying to do is strike at the interstate ramifications of these activities, and then only to the extent that some underlying violation of local laws and local policy is involved. Under no circumstances ought the Federal power to be brought unnecessarily into conflict with whatever the States want to do, including the local decision, such as has actually been made in Nevada and a few other jurisdictions, to license or legalize certain types of gambling activities so that they merit no Federal attention at all.

This calls for an adjustment in the bill you have before you. It is going to be necessary to make an exclusion which we have not heretofore considered.

Let me try to explain by examples: We want to strike at every interstate transaction connected in anyway with an operation which is unlawful under State laws—let us say, a roulette establishment operating near New York City. We want to crack down on that kind of operation if the mails or interstate commerce are used for any purpose whatsoever, including uses for what would otherwise be normal business activities such as sending orders for gambling equipment to manufacturers in other States, receiving shipments of such items from other States, paying bills by mail, clearing checks, and so forth.

We also want—and I understand that our good friends from Nevada are entirely in agreement with this—to cut off any interstate projections of gambling activities from jurisdictions like Nevada where the same are legal on an intrastate basis. For instance, the Federal authority ought to prevent a licensed gambling pool operating legiti-

mately in one State from soliciting bets among people in another State and taking their money by means of the mails, or receiving telephoned bets across the State line, and so forth.

This is the kind of thing the original Lottery Act prevented, and it is the prohibition we wish to extend with respect to other gambling enterprises in H. R. 7975.

But, on the other hand—and this is what makes the additional exemption necessary—I don't think we have any reason for cutting off the legitimate business activities of the proprietors of Nevada gambling places, that is, orders which they might want to send to a Chicago manufacturer or a New York printer, and shipments they might receive in return, or payments by them for goods or services, or their checks transmitted outside the State to pay debts incurred legitimately at the gambling table or received by them and transmitted through clearinghouses, and so forth, for collection elsewhere. I also believe there is no reason why enterprises in this category should be prohibited from advertising, as long as they do not attempt to solicit bets directly or anything like that, from people in other States.

This same problem, as Congressman Young pointed out, was encountered in connection with the Slot Machine Act of 1951, and was met there by a special exemption written into that act, as section 1172 of title 15, United States Code, which permits any State to exempt itself by special legislation from the restrictive operations of the act. This is illustrative, although we have not been able to use it as an exact model in drafting the amendment as proposed.

We have been trying to work this out with Congressman Young, of Nevada, and spokesmen for some interested individuals in his State, and I believe we have developed some amendatory language which will draw the line between what we wish to include and what we wish to exclude. You may wish to scrutinize the exact words we have chosen further, as it is a very delicate drafting problem. But I think the following is fairly close to a workable solution, and I think it is acceptable to Congressman Young and to those whom he has so faithfully represented. And, as the author of this bill, I accept it and urge you to include it as an amendment.

On page 6, line 1, insert after the words "track racing events;" the words "licensed enterprises;"

And on page 6, line 13, delete the word "or" and insert in lieu thereof—indented as a new subsection—the following:

the sponsorship, management, advertisement, and intrastate operation or transactions relating thereto, of any enterprise, scheme, or device which is licensed under applicable State laws; or

I respectfully request that the statement I have made today on this amendment be made a part of the record and that these amendments be adopted, and that, in your report, it be made clear in connection with the legislation just what we are intending to include and to exclude. Of course any changes in this wording which you or your counsel might feel were more artistic would be entirely acceptable. I realize that probably the wording can be improved upon, but I think we have arrived at an agreement and I am very happy about it, and again I pay my tribute to Congressman Young for the fine cooperation he has extended, and my thanks to this committee for this hearing.

Mr. ROBSRON. Do you have any questions, Mr. Poff?

Mr. POFF. I think, Mr. Keating, it is important from your standpoint and from the standpoint of the State of Nevada, that we establish the legislative intent of this amendment, and do so in this record.

For that reason, let me ask: Do you think that this amendatory language will make it legal for the State of Nevada, or rather for legitimate gambling industries in the State of Nevada, to send through the mail, checks, advertisements, orders for gambling devices and so forth?

Mr. KEATING. I do think so, and I think—if I understand what you are getting at—I think it will meet the four specific points raised in Mr. Young's testimony.

Mr. POFF. Do you think it will enable people living in Idaho, for instance, to carry money in their pockets across the State line into Nevada and to participate in the gambling industries of that State?

Mr. KEATING. I think it will.

Mr. POFF. It is your purpose to make that possible.

Mr. KEATING. Yes, it is. In other words, I think we must respect the legitimate economy of the State of Nevada, and I think that that is the position which the Congress of the United States should take, at least those who are strong adherents of the States rights doctrine.

Mr. POFF. But I take it, it is not your purpose in any way to expand upon the authority of the gambling industry in Nevada, to advertise by wire, radio, or television, and solicit betting by citizens of adjoining States?

Mr. KEATING. That is right, and I am told that that is not the practice now. In fact, I am inclined to think that the fears about the advertising is out of an abundance of caution on their part, because I understand this advertising is advertising of hotels and other establishments where gambling is just incidental to their operation, and they do not actually advertise gambling itself. But I believe this would take care of it.

Mr. POFF. Well, to cite a specific example to further clarify it, at present the gambling industry in Nevada would not be able to make a televising advertising program and put it on the cable and transmit it all over the United States. Your amendment would not grant that right which does not now exist?

Mr. KEATING. No; it would not.

Mr. POFF. That is all, Mr. Chairman.

Mr. ROBSION. Do you have any questions, counsel?

Mr. MECARTNEY. No questions.

Mr. ROBSION. Is that all, Mr. Keating?

Mr. KEATING. That is all, Mr. Chairman.

Mr. ROBSION. Do you have any further witnesses that you wish to present in support of this proposed legislation, Mr. Keating?

Mr. KEATING. No; I do not think so, Mr. Chairman.

STATEMENT OF RUFUS KING, REPRESENTING THE AMERICAN BAR ASSOCIATION

Mr. ROBSION. Mr. King you are here either officially or unofficially as representing the American Bar Association; are you not?

Mr. KING. Yes, I am. However, I have no authority to express the attitude of the American Bar Association with respect to this amendment. I think the record already shows that the American

Bar Association has approved the bill as it was originally introduced, and I could not officially state any opinion as to a departure from that until it was referred back to the council of our section and acted on by the house of delegates.

Mr. ROBSION. But you are particularly familiar with the proposed legislation by reason of your discussion with Congressman Keating and Mr. Young and others interested? Speaking personally and from your own particular knowledge of what is proposed in this legislation, do you feel that the amendment will accomplish what is expected?

Mr. KING. Yes; I do. And personally I believe it is very important, because I am entirely in agreement with the principle that the Federal power, in cases like this, should only be invoked to deal with interstate projections of things that violate intrastate policy, or in other words, the policies of the several States. I believe that this amendment will do what it is intended to do, that is, exempt from the interstate ban any intrastate operation that does not violate local policy; and upon that basis, I think it is very important and is a worthwhile amendment to the bill.

Mr. ROBSION. Thank you. Any questions, Mr. Poff?

Mr. POFF. No questions.

Mr. ROBSION. Mr. Young, do you have other witnesses that you would like to present in connection with the bill?

Mr. YOUNG. No, Mr. Chairman. The others are here to answer any questions the committee may have.

Mr. ROBSION. I think the record should show their presence and will you please give to the reporter the names and the occupations of these gentlemen?

Mr. YOUNG. I believe Governor Russell has already referred to them in his statement. They are Mr. E. J. Questa, president of the First National Bank of Nevada, and Mr. Robbins Cahill, secretary of our State Tax Commission.

Mr. ROBSION. Would either of these gentlemen care to make a statement, or are there any persons in the room who would like to be heard?

Governor RUSSELL. Mr. Chairman, they are just here in case there were any questions and they have no statements to make.

Mr. ROBSION. Then, as I understand it, there is no one in the room who has an interest in this bill who would care to make a statement at this time?

Governor RUSSELL. That is correct, Mr. Chairman.

These gentlemen who have accompanied me here came to furnish any additional information which the committee may desire.

Mr. ROBSION. It seems to me there is complete harmony between the proponents and the opponents of the bill. Personally, I see no need for any additional statements.

Governor RUSSELL. That is true.

Mr. ROBSION. I think both sides have covered the question very thoroughly in the original hearings before this committee.

Governor RUSSELL. Also, we would like, if it is agreeable to the committee, to furnish to the committee any information in writing that the committee may desire from the State.

Mr. ROBSION. The Honorable Clifton Young, your Representative in Congress, has been most efficient and helpful to this committee, and if it appears to the committee that additional information is necessary, he will be here and we can contact you through him.

Governor RUSSELL. We feel we have been very fortunate in having Mr. Young here, and we appreciate this courtesy very much.

Mr. ROBSION. If there is nothing further, the hearing will be concluded.

(Whereupon, at 11:05 a. m. the hearing was concluded.)

(The following departmental reports were made a part of the record of the hearing:)

INTERSTATE COMMERCE COMMISSION,
Washington, D. C., April 8, 1954.

HON. CHAUNCEY W. REED,
*Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.*

DEAR CHAIRMAN REED: Your letter of March 8, 1954, addressed to the Chairman of the Commission and requesting comments on a bill, H. R. 7975, introduced by Congressman Keating, to prohibit certain acts and transactions with respect to gambling materials, has been referred to our Committee on Legislation and Rules, after careful consideration by that committee I am authorized to submit the following comments in its behalf:

H. R. 7975 proposes to amend chapter 61, title 18, of the United States Code, which relates to lotteries. In addition to the other amendments, discussed below, the bill would condense the provisions of the present 5 sections of that title, 1301-05, into 4 sections, 1301-04.

The present statute prohibits importing or knowingly transporting, receiving, or mailing tickets, chances, or similar articles offering prizes dependent upon the event of a "lottery, gift enterprise, or similar scheme." Where the quoted words or substantially similar words are used in the present statute, H. R. 7975 would add the words "gambling" or "gambling enterprise," except in section 1301 (b), which deals with taking or receiving such tickets or chances. The bill would also add "punchboards" or "pushcards" to the list of devices now covered.

The present statute prohibits knowingly depositing such articles for carriage with "any express company or other common carrier." The bill would change the quoted words to read "any express company or any other carrier for compensation." This would appear sufficient to cover contract carriers and private carriers who do not seem to be covered under the present law.

Section 1301 now applies to "whoever brings into the United States" any of the prohibited articles. H. R. 7975 would add after "whoever," the word "knowingly," which was previously omitted, evidently inadvertently.

On page 5, line 11, the word "lotterily" should be "lottery."

It would be very difficult for interstate carriers, particularly common carriers, to be certain that they do not transport any of the prohibited articles or devices, since they can hardly examine the contents of every package they receive. The inclusion of the word "knowingly," however, would seem to be sufficient to relieve them of liability unless they knew they were transporting prohibited articles.

We have no objection to the enactment of H. R. 7975.

Respectfully submitted.

J. M. JOHNSON, *Chairman.*
CHARLES D. MAHAFFIE,
HOWARD G. FREAS,
Committee on Legislation and Rules.

OFFICE OF THE POSTMASTER GENERAL,
Washington, D. C., June 7, 1954.

HON. CHAUNCEY W. REED,
Chairman, Committee on the Judiciary, House of Representatives.

DEAR MR. CHAIRMAN: Reference is made to your request for a report on H. R. 7975, a bill to prohibit certain acts and transactions with respect to gambling materials.

I am wholly in accord with the objectives of this legislation. During the past few years, the Post Office Department has attempted to apply the existing lottery laws to schemes conducted through the mails involving the use of punch-

boards and pushcards and to schemes involving the acceptance or placing of bets or wagers on athletic events of all kinds. On several occasions, however, the district courts of the United States have concluded that certain of the schemes involving the use of pushcards and certain activities of individuals accepting bets on the results of horseraces were not within the purview of present lottery statutes.

I do not believe, however, that the bill should be enacted in its present form. I submit for your consideration the following suggestions:

One of the most effective ways of preventing delivery of matter relating to lotteries and gambling enterprises is to declare specifically that those materials are nonmailable and shall not be conveyed in the United States mails. With this declaration the Postmaster General may, when he detects such materials in the mails, have them withdrawn therefrom and disposed of as nonmailable matter. In many instances over the years, the Department has observed that punchboards and pushcards have been mailed in such a manner as to permit them to be examined prior to their dispatch. If these are specifically declared to be nonmailable, they may be removed from the mail and will therefore never reach the person to whom they are addressed. If operators of gambling enterprises of this kind cannot get their punchboards and pushcards through the mails to the prospective users, their activities will soon come to an end. This objective would be accomplished by the provisions of subsection (c) on page 4 of the bill.

This legislation, however, broadens the existing lottery laws so as to cover gambling. Gambling, it is assumed, is intended to encompass a type of activity not covered by the original language, "lottery, gift enterprise, or similar scheme offering prizes dependent in whole or in part upon lot or chance." If this bill is enacted in its present form it would appear that there would be room for argument and misinterpretation as to the scope of the new sections. For example, betting on racehorses has been held at least in two instances by a district court of the United States as not involving chance. The activities of bookmakers were therefore held by the district court not to be within the scope of the present lottery laws. This measure couples "gambling" with "lottery, gift enterprise, or scheme * * * dependent in whole or in part upon lot or chance." It would seem doubtful, therefore, that this bill, if enacted, could be extended to the activities of the bookmakers because, as the courts have said, their gambling enterprise does not involve lot or chance. I therefore feel that the enforcement of the gambling side of this proposed bill would be made easier by an exact legislative definition of the term.

It is noted that in line 3, page 3, the proposed bill covers publications advertising or soliciting business in connection with any of the prescribed schemes. Since solicitations frequently appear in letters and on postal cards and are not limited to circulars, pamphlets, etc., I think that the opening sentence of this paragraph should read:

"Any letter, postal card, newspaper, circular, pamphlet, or publication of any kind * * *"

On page 6 of the bill, lines 14 through 17, it is provided that the provisions of this chapter shall not apply with respect to the importation and distribution of any foreign newspaper, pamphlet, or other publication distributed as a bona fide medium for news, information, or opinions in any foreign country. In the opinion of the Department this provision should not be enacted into law. It will permit magazines and other publications from Mexico, Ireland, and a number of other countries where lotteries are legally conducted to include announcements of their lotteries, the result, and all the pertinent details, including the places to which persons in this country might address remittances representing the purchase price of tickets in these lotteries. Because this bill makes it unlawful for domestic newspapers to carry advertisements of lotteries no exemption therefrom should be extended to foreign publications.

In view of the foregoing, I do not recommend the enactment of this bill in its present form.

When the Department reported to the Senate Committee on Post Office and Civil Service on a similar bill, S. 716, the Bureau of the Budget advised that there would be no objection to the submission of the report to the committee.

Sincerely yours,

CHARLES R. HOOK, Jr., *Deputy Postmaster General*.

FEDERAL TRADE COMMISSION,
Washington, D. C., June 7, 1954.

HON. CHAUNCEY W. REED,
*Chairman, Committee on the Judiciary,
House of Representatives, Washington 25, D. C.*

MY DEAR MR. CHAIRMAN: Reference is made to your letter of March 8, 1954, requesting an expression of views on H. R. 7975, 83d Congress, 2d session, a bill to prohibit certain acts and transactions with respect to gambling materials.

The proposed legislation would rewrite and add to chapter 61 of title 18, United States Code, and, among other things, would include "any punchboard or pushcard" among the items prohibited from being introduced into interstate commerce, under penalty of fine and/or imprisonment.

The kind of punchboard or pushcard with which the Federal Trade Commission is concerned is that designed or intended to be used in the sale or distribution of merchandises by lottery, gift enterprise, or chance. As of the present writing, there have been approximately 500 orders to cease and desist and 115 stipulations entered by the Commission against such practices. Also, the Department of Justice, at the request of the Commission, has instituted some 17 civil penalty proceedings for violations of such orders.

It is believed that the enactment of legislation making it a criminal offense to introduce into interstate commerce any punchboard or pushcard designed or intended to be used in the sale or distribution of merchandise would prove a substantial deterrent to the use of lottery methods in merchandising and substantially contribute to the Commission's efforts to eliminate the use of such devices as a business method. However, in view of subsection (d) of section 1301, it is doubtful whether the bill under consideration would cover the kind of punchboards and pushcards over which the Commission exercises jurisdiction.

Subsection (d) of section 1301 reads:

"(d) For the purposes of this section the phrase 'punchboard or pushcard' shall include such boards, cards, or similar devices designed and manufactured primarily for use in connection with gambling, but shall not include devices numerically keyed to an answer sheet or containing no numerical identification of individual plays and designed and manufactured primarily for amusement purposes."

At the hearings on S. 1624, 82d Congress, 1st session, a substantially identical bill, Senator O'Connor stated with reference to a proposal to add the language now contained in subsection (d):

"Mr. Chairman, with respect to S. 1624, I wish first to acknowledge two suggestions which seem to be sound and meritorious. Punchboards and pushcards as referred to on page 2 at line 20 and thereafter might be qualified pursuant to the suggestion of a witness here as of yesterday, so as to reach only such devices when they were designed for gambling purposes. This would exclude the innocuous amusement devices; and I feel confident I can speak for the entire membership in stating that there was no direct suggestion to strike at these innocuous amusement devices" (p. 109).

Thus, the proposed legislation may well be construed not to cover the kind of punchboards and pushcards over which the Commission exercises jurisdiction. The decision of whether or not to include punchboards and pushcards designed or intended to be used in the sale or distribution of merchandise in the proposed legislation is clearly within the discretion of the Congress.

The express exclusion of punchboards or pushcards "numerically keyed to an answer sheet or containing no numerical identification of individual plays and designed and manufactured primarily for amusement purposes" would provide an avenue of escape from the provisions of the legislation. The keying of such devices to answer sheets or the lack of numerical identification of individual plays does not affect their utility for money or merchandise gambling. Punchboards and pushcards thus arranged have so often been used primarily for the sale and distribution of merchandise by chance, as well as for money gambling purposes, that the conclusion is inescapable that they are so intended and designed (*Feitler v. Federal Trade Commission*, 201 F. 2d 790, cert. denied 346 U. S. 814; *Douglas Candy Company v. Federal Trade Commission*, 125 F. 2d 665).

In order to make it clear that the bill is not intended to affect the jurisdiction of the Federal Trade Commission with respect to punchboards and pushcards designed or intended to be used in the sale or distribution of merchandise, it is recommended that the bill be amended by adding the following provision:

"Nothing in this act shall be construed to interfere with or reduce the authority, or the existing interpretations of the authority, of the Federal Trade Commission under the Federal Trade Commission Act, as amended (15 U. S. C. 41-48)."

This is the same provision as appears in section 2 of the act entitled "An act to prohibit transportation of gambling devices in interstate and foreign commerce," approved January 2, 1951 (64 Stat. 1134). Its inclusion in the bill now under consideration would serve the same purpose as it does in that act. Its value is indicated, for example, in the decision in *Lichtenstein v. Federal Trade Commission* (194 F. 2d 607, cert. denied 344 U. S. 819).

In addition to the foregoing suggested amendment, it is further recommended that the bill be amended either to specifically include or to specifically exclude punchboards and pushcards for use in the sale of or distribution of merchandise by chance. In the event of inclusion, it would be quite material that the provisions respecting devices "keyed to an answer sheet" or containing no "numerical identification of individual plays" be deleted from the bill. So amended, the bill would contribute greatly to the elimination of the practice of distributing merchandise by lottery methods. In the event merchandise boards are excluded, the bill would not affect any of the activities of the Commission pursuant to the laws committed to its jurisdiction. Regardless, however, of the scope of the bill as finally enacted, the Commission does recommend the inclusion of the suggested provision to make it clear that the bill is not intended to affect the present jurisdiction of the Federal Trade Commission.

By direction of the Commission.

Sincerely yours,

EDWARD F. HOWREY, *Chairman*.

FEDERAL COMMUNICATIONS COMMISSION,
Washington 25, D. C., June 7, 1954.

HON. CHAUNCEY W. REED,

*Chairman, House Committee on the Judiciary,
House of Representatives, Washington, D. C.*

DEAR CONGRESSMAN REED: This is in reply to your request for the Commission's comments concerning H. R. 7975, a bill to prohibit certain acts and transactions with respect to gambling materials.

Enclosed are copies of the Commission's comments concerning this legislation. We will be pleased to furnish any further information or comments which your committee may desire.

The Bureau of the Budget has advised the Commission that it has no objection to the submission of these comments to your committee.

Sincerely yours,

ROSEL H. HYDE, *Chairman*.

COMMENTS OF THE FEDERAL COMMUNICATIONS COMMISSION ON H. R. 7975, A
BILL TO PROHIBIT CERTAIN ACTS AND TRANSACTIONS WITH RESPECT TO
GAMBLING MATERIALS

H. R. 7975 proposes several amendments to the United States Criminal Code which concern lottery and gambling enterprises. The only provision of the bill which directly affects the Commission and its licensees is the proposed amendment to section 1303 of title 18, which prohibits the broadcasting of lottery information. Section 1303 now makes it unlawful to broadcast or to knowingly permit to be broadcast "any advertisement of or information concerning any lottery, gift enterprise, or similar scheme, offering prizes dependent in whole or in part upon lot or chance * * *." H. R. 7975 would amend the quoted portion of the section to read: "any advertisement of or information concerning any gambling enterprise, lottery, gift enterprise, or scheme of any kind offering money or prizes dependent in whole or in part upon lot or chance * * *."

No definition of the term "gambling enterprise" is contained in the statute, and it is therefore not clear what enterprises, in addition to those covered by the existing language of the section, are intended to be included by the use of the new term. Since the section involved imposes a criminal sanction on stations operating in violation of its provisions, it is believed that, if the proposal is to be enacted into law, Congress should include a definition of the new term "gambling enterprise."

Adopted April 7, 1954.

THE TREASURY DEPARTMENT,
Washington, D. C., June 9, 1954.

HON. CHAUNCEY W. REED,
*Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.*

MY DEAR MR. CHAIRMAN: Reference is made to your request for the views of this Department on H. R. 7975, to prohibit certain acts and transactions with respect to gambling materials.

The bill would prohibit the importation, mailing, or transportation in interstate or foreign commerce of any gambling or lottery tickets, punchboards, pushcards, payments for purchases of lottery chances on punchboards or pushcards, offers or payments of wagers, and advertisements of gambling enterprises. It would also prohibit the knowing acceptance or receipt of lottery tickets or advertisements transported in interstate or foreign commerce. In addition, the proposed legislation would make it unlawful to broadcast gambling or lottery information.

The Treasury Department approves of the general purpose of the bill and has no comments which it wishes to make with respect to specific provisions of the proposed legislation.

The Department has been advised by the Bureau of the Budget that there is no objection to the submission of this report to your committee.

Very truly yours,

H. CHAPMAN ROSE,
Acting Secretary of the Treasury.

THE SECRETARY OF COMMERCE,
Washington, D. C., June 11, 1954.

HON. CHAUNCEY M. REED,
*Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.*

DEAR MR. CHAIRMAN: This letter is in reply to your request of March 8, 1954, for the views of this Department with respect to H. R. 7975, a bill to prohibit certain acts and transactions with respect to gambling materials.

This bill would prohibit the use of the mails in distributing certain gambling paraphernalia, information concerning the outcome of any gambling activities, and the payment of any winnings through gambling. It would also prohibit the distribution of gambling materials by any carrier for compensation in interstate or foreign commerce. It would prohibit the dissemination of information concerning gambling by radio. It prescribes penalties for both those who originate the materials and those who transport them, including those of the Post Office Department who might deliver such materials.

Certain fishing contests, racing track events authorized by State law, and the importation of foreign publications which might contain such material are exempt.

The Department recommends against the enactment of H. R. 7975 for reasons set forth below.

It appears that the bill is an attempt to use Federal control of the mails and of interstate commerce in an effort to regulate the personal conduct of citizens. Whether or not legislation for this purpose is desirable or necessary is a matter of policy which the Congress should decide. However, we offer the following comments with respect to the provisions of H. R. 7975.

The bill would go further than did the so-called slot-machine law enacted by the 82d Congress. That legislation forbade the shipment in interstate commerce of certain gambling devices unless destined for use in a State or subdivision thereof in which such use was legal. H. R. 7975 does not include such an exception. Moreover, the language of the bill is so inclusive that it would be difficult for the average person to determine whether or not various activities or devices were legal.

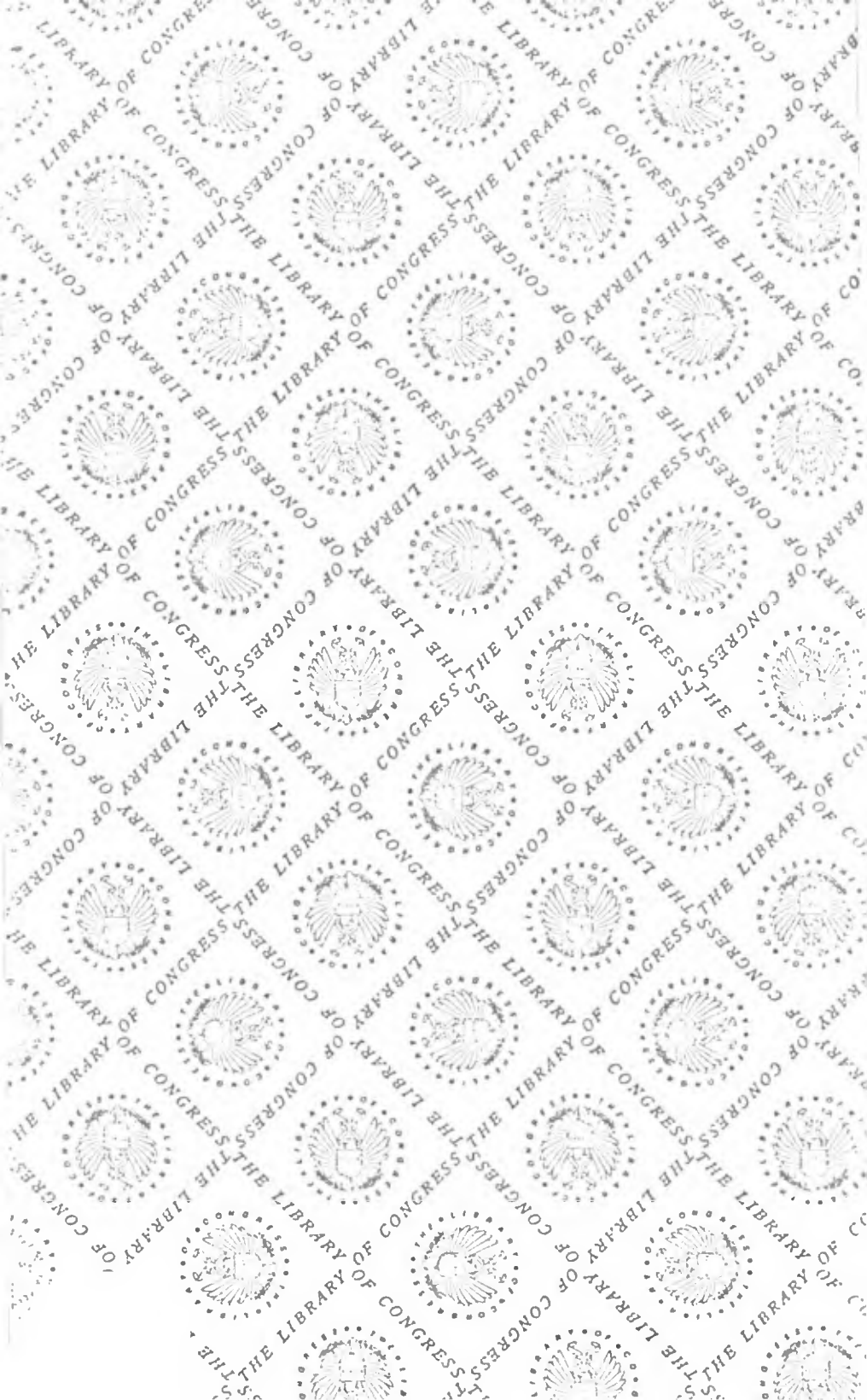
We have been advised by the Bureau of the Budget that they would interpose no objection to the submission of this report to the committee.

If we can be of further assistance to you in this matter please call on us.

Sincerely yours,

SINCLAIR WEEKS,
Secretary of Commerce.

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